

Response to Map#2:

Major Issues:

1. WQ Standards - As a general matter, there is an increasing trend toward more complex standards to deal with more complex situations (expectations for models, knowing what downstream impact might be when WQS are being set or revised, doing standards that are more site-specifically tailored, etc.). The potential consequence of these things is that our standards rules get more involved (e.g., longer, address more things and/or more potential situations), it's more work, more things to go through ESA consultation (for the Pac. NW states, anyway) and potentially sets up external expectations for a level of precision that isn't reasonable, and, potentially contrary to the original intention, could have the potential consequence of providing additional things to litigate on. Based on this, an area that might be ripe for discussion is how to find the "sweet spot," or perhaps more accurately, the level of risk that group is willing to accept, given all these things. There is going to be no such thing as a litigation-proof WQS rule, so at some point, there has to be an assessment of where that group will set the bar so as not to completely halt the program from overkill (on one end of the spectrum) or from litigation (on the other).

2. OR Temperature Standards Litigation – this will continue to represent a lot of work for the future both working through this litigation until the judge's decision and then the next step of adopting a new "NCC-type" criterion. This issue is more than just about OR as the premise of eliminating the NCC would affect the Pacific NW states. The new lawsuit in Idaho has the potential to affect temperature work in ID. When next for WA, northern CA or elsewhere? How is EPA planning to address this?

A related issue is why is the EPA record of decision of poor quality (as stated by their own staff and counsel)? This issue comes up in other lawsuits. Is this a problem we can fix so we don't lose lawsuits based on the quality of the record?

3. OR Temperature TMDL Litigation – this is the next step from the above litigation. At this time, the level of effort involved is unknown, but it could be another major piece of litigation, with regional implications. Will EPA choose to defend? We have not heard yet.

4. CZARA Litigation – Mid-Coast TMDL, Onsite time of transfer rule and urban guidance. The biggest issue is trying to understand where EPA is coming from, as seen from the joint EPA and NOAA letter of December 21. How much ongoing support will be needed from EPA? Why is EPA choosing to focus so much energy on forestry issues when the monitoring data in general indicates that the real environmental problems are in the urban and agricultural sectors. Why is EPA consuming OR resources and political will on these forestry issues when DEQ would prefer to focus on the areas where we can have the biggest environmental gain and there is growing momentum to do things on the ground?

Also, how does EPA's approach on the forestry-specific portion of the CZARA litigation align with the Forest Roads litigation and recent EPA rulemaking about forest roads?

Less Major Issues – but resource commitments:

1. Aquatic life toxics standards – the need to work together as DEQ works to resolve the upcoming EPA disapproval for several toxics.
2. Integrated Planning – the new and ongoing commitment from Region 10 to work with DEQ on the Clean Water Services request for integrated planning – what will be the EPA process for getting to approval? DEQ has developed its process for reviewing an integrated plan, but Region 10, EPA HQ and DEQ need to be on the same page.
3. WQ Trading – the regional grant is in place and Region 10, WA, ID and OR need to remain committed to a successful outcome.
4. Turbidity – we are starting to move forward on the long-delayed turbidity rulemaking. We will need to have EPA involved during the development as well as during the EPA review process. Is the commitment there?